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**IN THE
COURT OF APPEALS OF INDIANA**

ANTHONY ADAMS,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 48A02-0605-CR-381
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE MADISON SUPERIOR COURT
The Honorable Thomas Newman, Jr., Judge
Cause No. 48D03-9301-CF-00031

September 18, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

Anthony Adams (“Adams”) appeals the revocation of his probation based on his violation of a no-contact order issued by the trial court and pertaining to his wife, Cecilia Adams (“Cecilia”). He argues that the trial court erred by admitting, over his objection, certain police reports indicating that he violated the no-contact order and that without these police reports the evidence is insufficient to uphold revocation. Finding that Cecilia’s testimony regarding her contact with Adams was sufficient—without relying on the police reports—to support the revocation, we affirm the trial court.

Facts and Procedural History

On January 20, 1993, Adams was convicted of murder and received a sentence of fifty years with twenty years suspended to probation. He was released on probation from the Indiana Department of Correction on March 23, 2004. On January 20, 2005, the trial court issued a warrant for Adams’ arrest for a probation violation stemming from “violent contact” with his wife, Cecilia. *See* Tr. p. 2. At a hearing on March 7, 2005, the State dismissed the charge against Adams; however, the trial court issued a no-contact order against Adams regarding Cecilia.

On April 16, 2005, Cecilia reported to police that she and Adams had been involved in an altercation in a motel room she was living in. She reported that Adams kicked and pounded the door of the room, that she let him in at that time, and that he subsequently assaulted her. Cecilia reported that when she called 911, Adams left and began walking away from the motel. Police responding to Cecilia’s call stopped and arrested Adams several blocks from the motel. He claimed that he had not had verbal or

physical contact with Cecilia, however. At a subsequent probation revocation hearing on this incident, Cecilia failed to appear despite having been subpoenaed, and the trial court consequently found in favor of Adams and released him.

On October 27, 2005, the State filed another notice of probation violation against Adams. The State cited several alleged violations of the no-contact order,¹ including a report that Adams and Cecilia—who reported to police and paramedics that she was “Tracy Smith”—were together when Adams was assaulted by three men, requiring medical attention, following what Adams said was an attempted robbery on August 21, 2005; a report that Adams took Cecilia’s car from her residence on August 28, 2005, prompting Cecilia to file a police report; a report that Adams battered Cecilia on September 17, 2005, again prompting Cecilia to file a police report; and a report that the couple had been living together for some period of time during at least September 2005.

A probation revocation hearing was held on December 13, 2005. Because the reporting officers failed to appear in court after being subpoenaed, the State admitted, over Adams’ objection, the police reports for the August 21, August 28, and September 17 incidents. *See* State’s Ex. 2. Cecilia also testified at the hearing regarding all three incidents, reporting that Adams had contact with her on each date and otherwise corroborating the information contained in each of the admitted police reports and the notice of probation violation. Cecilia further testified that she and Adams had lived together in motel apartments for at least five months before the September 17 incident.

¹ Adams does not contest the State’s assertion that violation of the no-contact order properly constitutes a violation of the terms of his probation order. Among the conditions of Adams’ probation, we note that he was required “To obey all municipal, state, and federal laws, and to behave well in society;” *See* State’s Ex. 1.

The trial court found that Adams had violated his probation by failing to abide by the no-contact order and ordered Adams' twenty-year probationary sentence executed in the Indiana Department of Correction. Adams now appeals.

Discussion and Decision

Adams raises two issues on appeal. First, he argues that the trial court erred when it admitted the police reports in lieu of the testimony of the filing officers at his probation revocation hearing. Second, he argues that even if the reports were admissible, the evidence is insufficient to support the revocation of his probation. Because we will uphold the revocation of Adams' probation if the evidence *even without the police reports* is sufficient to support revocation, we address the sufficiency argument first.

At the outset, we note that a probation revocation hearing is civil in nature, not criminal. *Marsh v. State*, 818 N.E.2d 143, 148 (Ind. Ct. App. 2004). As such, the State need only prove alleged probation violations by a preponderance of the evidence. *Id.*; *see also* Ind. Code § 35-38-2-3(e). A trial court may revoke a person's probation upon evidence of the violation of any single term of probation. *Baxter v. State*, 774 N.E.2d 1037, 1044 (Ind. Ct. App. 2002), *trans. denied*. As with other sufficiency questions, this Court will neither reweigh the evidence nor judge the credibility of the witnesses when reviewing a probation revocation. *Id.* We look only to the evidence that supports the judgment and any reasonable inferences flowing therefrom. *Id.* If there is substantial evidence of probative value to support the trial court's decision that the probationer is guilty of a violation, revocation is appropriate. *Id.* Defendants are granted probation as a favor by the State, not as a right, and so probationary hearings take place under relaxed

standards where the rules of evidence do not apply. *See Marsh*, 818 N.E.2d at 146-47; *see also* Ind. Evidence Rule 101(c)(2).

The State asserted that Adams violated the terms of his probation when he violated the no-contact order imposed by the trial court. In support of these charges, the State introduced the police reports from each incident cited, and it called Cecilia to testify against Adams on each incident and regarding the fact that the couple had been living together. It is firmly established that “[t]he testimony of a single eyewitness to a crime is sufficient to sustain a conviction.” *Stokes v. State*, 828 N.E.2d 937, 940 (Ind. Ct. App. 2005) (citing *Green v. State*, 756 N.E.2d 496, 497 (Ind. 2001)), *trans. denied*. To rebut the notion that we should heed this principle, Adams states only that “Cecilia’s testimony was so suspect that it was the reports which provided the Court the basis for its decision.” Appellant’s Br. p. 9. Our reading of the transcript, however, indicates that Cecilia’s testimony was wholly sufficient to provide a basis for the trial court’s decision.

Cecilia testified that she had repeated contact with Adams after the trial court issued the no-contact order against Adams. She testified that she was with Adams on August 21, 2005, that she witnessed three men attacking Adams, that she called the paramedics to get medical assistance for Adams, and that she identified herself to police that day as Tracy Smith. She testified that Adams assaulted her on August 28 and September 17 and that she called police to the scene on both occasions. Further, she testified that she and Adams had been living together in hotel apartments around Indianapolis from at least May to September 2005 and that they shared a vehicle. Any one of these testimonial reports by Cecilia is sufficient to prove by a preponderance of

the evidence that Adams violated the no-contact order, and hence, is sufficient to support the revocation of Adams' probation.

Moreover, Cecilia's testimony corroborated the contents of each of the police reports that the trial court admitted into evidence. Because we may uphold Adams' conviction based on Cecilia's testimony alone, we need not reach Adams' argument that the police reports were inadmissible in this case. However, even if the trial court did commit error by admitting those reports, the information contained therein was merely cumulative of Cecilia's testimony, and the error was therefore harmless. *See Smith v. State*, 839 N.E.2d 780, 786-87 (Ind. Ct. App. 2005). Consequently, we affirm the trial court's revocation of probation.

Affirmed.

BAKER, J., and CRONE, J., concur.